PATENT **1595/SYMBP165USA**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re patent application of:	
Appellant(s): Stephen M. Sikorski	Examiner: Michelle K. Lay
Serial No: 10/748,992	Art Unit: 2628
Filing Date: December 29, 2003	

Title: INVERTED TERMINAL PRESENTATION SCANNER AND HOLDER

Mail Stop Appeal Brief – Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

REPLY BRIEF

Dear Sir:

Appellant's representative submits this Reply Brief in response to the Examiner's Answer mailed March 30, 2006.

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A. **Regarding the Rejection of Claims 1, 2, 5-7 and 16 Under 35 U.S.C. §102(e)**

Claims 1, 2, 5-7 and 16 stand rejected under 35 U.S.C. §102(e) as being anticipated by Manchester (US Publication No. 2004/0201595 A1). Reversal of this rejection is respectfully requested for at least the following reasons. Manchester fails to teach or suggest each and every element of the subject claims.

Appellant's claimed subject matter relates to systems and methodologies that facilitate data capture and/or display of data to users. A mobile scanning terminal device provides inverting and/or rotating the display based upon a user's perspective. Suitable orientation for the display can be determined *via* employing various sensors and artificial intelligence techniques to infer a user's optical viewing position. Accordingly, a display can be automatically configured to optimize its orientation for viewing by the user. The system can additionally provide for a holder that enables a user to employ the terminal device hands free for capture of data. To that end, independent claim 1 recites *a mobile device having a **display component** and an **orientation component** that automatically orients display objects rendered by the display **based at least in part upon a user perspective***. Further, independent claim 6 (and associated dependent claims) recite further system features in accordance with the claimed subject matter. Manchester does not teach or suggest these exemplary aspects of the claimed innovation.

Manchester relates to a self-orienting display that *senses characteristics of an **object*** to be displayed and automatically rotates the display *in accordance with those characteristics*. In the Examiner's Answer, the Examiner contends that Manchester's *sensors sense the orientation of the viewer and/or the display device*, citing paragraphs [0020] and [0027]. However, paragraph [0020] discloses a *display device* and lists various types of display devices that could be used, *e.g.* CRT, LED, *etc.* Paragraph [0027] (as already discussed in the Appeal Brief) clearly indicates that a *display image* is *arbitrarily rotated* as a function of the rotation of the display device. It is maintained that the prior art disclosure of *rotating an oriented display image to an arbitrary orientation* is clearly ***not*** equivalent to the claimed *orientation component that **automatically** orients display objects rendered by the display **based at least in part upon a user perspective***. It must be appreciated that Manchester discloses a device that changes display orientation in response to movement of ***the object*** or ***the display device***. There is simply nothing

disclosed or suggested in Manchester that can accommodate any variations in the ***user's orientation***, *e.g.* if the user is oriented in any way other than vertical. The Examiner acknowledges this distinction in the midst of contending arguments, stating *the display image (14) is automatically oriented **with respect to the orientation of the display** (12) [0025].* (emphasis added).

The Examiner goes on to equate the orientation of the display device with the orientation of the user holding the device, stating that *it is implicit that the display image orients itself based on the user's perspective since the user holds the display toward him/herself in order to view.* The Examiner further argues that appellant's independent claims do not limit the scope of the claims as to the degree of rotation of orientation, since the independent claims recite *orients display objects... based at least in part upon a user perspective.* However, these arguments are irrelevant since the cited reference fails to disclose or suggest a discrete component, namely the claimed ***orientation component,*** nor has anything been shown from Manchester that *automatically orients display objects rendered by the display based at least in part upon a user perspective,* as has been shown *supra* and throughout prosecution. The Examiner has casually dismissed this claimed aspect without making any showing from the reference.

In view of at the least the foregoing comments, it is therefore readily apparent that Manchester fails to disclose or suggest each and every aspect of the claimed subject matter, as is required to show anticipation in accordance with 35 U.S.C. § 102(e). It is therefore maintained that the rejection of independent claims 1 and 16 (and claims which respectively depend there from) should be reversed.

B. Regarding the Rejection of Claims 3, 4, 8-12 and 15 Under 35 U.S.C. §103(a)

Claims 3, 4, 8-12 and 15 stand rejected under 35 U.S.C. §103(a) as being obvious over Manchester (US Publication No. 2004/0201595 A1) in view of Browning (US 6,707,581 B1). Appellant's representative respectfully submits that this rejection should be reversed for at least the following reasons. Browning fails to make up for the aforementioned deficiencies of Manchester with respect to independent claims 1 and 15.

To support the combination of Manchester and Browning, the Examiner continues to rely on the arguments concerning *orientation based on the user's perspective*, which

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have been refuted *supra* and are maintained herewith. Further, the Examiner cites a *camera 16b*, disclosed in paragraph [0036] of Manchester, which is used for authentication of a sensed image, *e.g.* a retina scan or the like. The Examiner compares this with Browning, who incorporates a *scanner* within a personal digital assistant (PDA), in which a *scan head* is used for sweeping across printed media, *i.e.* a barcode product identifier on a label. The Examiner maintains the combination on the basis that Manchester's retina scan authentication camera and Browning's bar code scanner are both *means to sense an object* where, instead of a retina, Browning's *object* is the barcode product identifier! It is respectfully submitted that these components are ***not*** equivalent and interchangeable and each have a well known, separate status in the art. Further, such a combination is in no way suggested by either reference, and could not be arrived at without a hindsight reading of the subject disclosure. In any event, Browning fails to make up for the aforementioned deficiencies of Manchester in that Browning fails to disclose or suggest ***an orientation component that automatically orients display objects rendered by the display based at least in part upon a user perspective*** as recited in independent claim 1 (and similarly in independent claim 15).

In view of at the least the foregoing comments, it is therefore apparent that the Examiner has failed to establish a *prima facie* case of obviousness, as is required in accordance with 35 U.S.C. § 103(a). Accordingly, the rejection of claims 3, 4, 8-12 and 15 should be reversed.

C. **Regarding the Rejection of Claims 13 and 14 Under 35 U.S.C. §103(a)**

Claims 13 and 14 stand rejected under 35 U.S.C. §103(a) as being obvious over Browning (US 6,707,581 B1) in view of Manchester (US Publication No. 2004/0201595 A1). It is respectfully submitted that the rejection should be reversed for at least the following reasons. Browning and Manchester, either alone or in combination, do not teach or suggest each and every element of the subject claims.

With respect to claims 13 and 14, the Examiner continues to rely on the arguments concerning *orientation based on the user's perspective*. These arguments have been refuted *supra* and are maintained herewith. Appellant maintains that Browning and Manchester, alone and in combination, fail to disclose or suggest a method

that includes *automatically orientating rendered graphical objects based at least in part upon a physical orientation of a user with respect to the device* and *changing object display parameters to provide at least one of an optimized object display and an optimized viewing position* as recited in independent claim 13 (and claim 14 which depends there from).

In view of at the least the foregoing comments, it is therefore apparent that the Examiner has failed to establish a *prima facie* case of obviousness, as is required in accordance with 35 U.S.C. § 103(a). Accordingly, the rejection of claims 13 and 14 should be reversed.

D. Regarding the Rejection of Claim 17 Under 35 U.S.C. §103(a)

Claim 17 stands rejected under 35 U.S.C. §103(a) as being obvious over Ogawa (US 6,937,281 B1) in view of Manchester (US Publication No. 2004/0201595 A1). Reversal of this rejection is respectfully requested for at least the following reasons. Ogawa and Manchester, either individually or in combination, do not teach or suggest all the limitations recited in the subject claims.

Appellant's claim 17 relates to *a mobile scanning terminal system having a data capture component that captures data, a display that displays data to a user, an artificial intelligence component that determines an optimal screen orientation for the display based at least upon a user's position, **a holder** that holds the data capture component at a predetermined position **to allow for continuous and hands-free capture of data.*** Ogawa shows a digital camera which the Examiner reads onto the subject data capture component. The Examiner cites col. 5, lines 42-48 to show the claimed *continuous capture of data*. However, this passage merely discloses a *continuous shooting mode in which a plurality of frames are successively exposed for a period of time during which the shutter switch (SW2) 64 continues to be depressed.* However, it is to be appreciated that in a timed sequence of still frames in a digital camera, data capture is interrupted by the action of the shutter. This is clearly ***not*** equivalent to *continuous capture of data* as claimed. In any case, the Examiner goes on to assert that the camera can be set onto a table or tripod to provide the claimed *hands-free capture of data*. Notwithstanding, it is readily apparent that nothing is disclosed or suggested from Ogawa that satisfies ***a holder***

that holds the data capture component at a predetermined position to allow for continuous and hands-free capture of data, as recited in claim 17.

In view of at least the foregoing, it is apparent that Ogawa and Manchester, alone and in combination, do not disclose or suggest the subject innovation as recited in independent claim 17. Accordingly, the rejection of this claim should be reversed.

E. Conclusion

For at least the above reasons, the claims currently under consideration are believed to be patentable over the cited references. Accordingly, it is respectfully requested that the rejections of claims 1-17 be reversed.

If any fees are due in connection with this document, the Commissioner is authorized to charge those fees to Deposit Account No. 50-1063 [SYMBP165USA].

Respectfully submitted,
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